

MIDDLETOWN TOWNSHIP BOARD OF EDUCATION

59 Tindall Road, Middletown, New Jersey 07748

TEL(732)671-3850 FAX(732)957-1846

www.middletownk12.org

Laura Agin, President

Dawn Diorio, Vice-President

February 8, 2010

To Whom It May Concern:

Recently, members of the Middletown Board of Education and I have been asked to clarify our position regarding discussions which took place between the Township and the BOE regarding the proposed construction of artificial turf fields on school property. It has been suggested that the BOE was not willing to work with the Township on this shared project, and I can assure you that this is not the case.

In the spring of 2009, the Township met with district administration regarding construction of artificial turf fields at the Thompson and Thorne Middle Schools. Given the district's experience and the BOE's involvement with turf field construction in the past, administration requested that a presentation be given to the Board directly at a public BOE meeting. Following a preliminary meeting with representatives from the Township, the district administration and BOE officers, the township finally agreed to present at a public forum. Shortly after this presentation, the Board met and directed our lawyer to write to the Township expressing our interest in pursuing this project and asking for information the Board felt they required to make an informed decision. Items requested included Rights of Usage, Insurance and Liability, Timing Issues, Cost Over-Runs, Infrastructure Construction, Drainage and Wetlands Issues, Lighting, Maintenance, etc. At the same time, the BOE requested a feasibility study to determine the viability of placement of these fields at these locations as well as whether this project could be completed with available funds.

In late August, having received only minimal information from the Township clarifying these important issues, the BOE Facilities Committee met with the Township to try and get enough information to make an informed decision regarding this project. This meeting was held on September 10 with representatives of the Board and the Township. The Township reiterated that it was their intent to build three artificial turf fields: a Croydon Hall upgrade, "turf and a fence" at Thorne Middle School, and a full sports complex, similar to Croydon Hall, at Thompson Middle School. It must be noted that this was the first time the Board was advised of the anticipated scope of the Thompson project and its primary use for Pop Warner football.

At the September 16 BOE Workshop Meeting, the Board discussed the viability of moving forward with these projects. It was determined that Thorne was not a viable location as a result of wetland concerns and security issues relative to its proximity to Harmony Elementary School. The Board also concluded that the Thompson location was not a desirable location for a full stadium complex. We believe there is not enough space available for a field, track, bleachers, snack stands, parking, etc. to accommodate the types of activities the Township intended for this location. Additionally, usage is a major concern, as Thompson students utilize this field for soccer, field hockey and cross country (practices and games) during the fall season, the very season Pop Warner football would be seeking both practice and game time.

After careful consideration, the Board suggested the Nut Swamp field as an alternative for a sports complex. This property is owned by the BOE but currently used primarily for Township recreation activities. We believe there is ample space at this location for its intended use, and its

proximity to Normandy Park would be a complement to Township recreational facilities. This was communicated via email to the Township on September 16, adding that any further discussion of this location would include community input from affected neighborhoods. We were advised by the Township on September 28 that they were not interested in pursuing the Nut Swamp location and, if only two fields were going to be constructed, it would make sense to have them both on Township property since two locations were available. This concluded discussions between the Township and the BOE regarding turf field construction.

Lastly, members of the community have asked if the BOE would be willing to allow Pop Warner to use high school fields, particularly MHSS. Neither the Township nor the Pop Warner organization have ever formally approached the district regarding field usage for that purpose. Our concerns with that type of use include field maintenance and security and costs associated with such usage. Additionally, during Pop Warner football season, the BOE fields are used consistently for football, soccer, field hockey and the band, both for practice and games. Our limited use snack bars are dedicated to our parent organizations for their fundraising efforts.

I hope this clarifies the Middletown BOE's position and answers the many questions and concerns that have risen over this important issue. The BOE works collaboratively with our administration and board attorney to ensure that the interests of the school district, the students and the taxpayers are considered and protected. I genuinely hope that whatever further steps the Township takes regarding the construction of turf fields includes input from the community at large.

I have included a timeline as well as pertinent documentation for your review.

Laura Agin, President
Middletown Board of Education

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Summary of the discussions between the Township Committee and the Board of Education regarding the installation of artificial turf fields on school grounds:

- In May 2009, the Township approached the Board with the concept of entering a shared services agreement, under which the Township would pay for the construction of artificial turf fields at existing athletic facilities on the property of one or more schools in the district. Township representatives made a brief presentation on the subject at the Board's May 27, 2009 public meeting.
- On June 5, 2009, the Board, having discussed the Township's suggestion at length, sent the Township a letter stating that the school district was interested in continuing the discussion of that idea. In an effort to fully understand the arrangement being suggested by the Township, the Board included in its June 5 letter a list of several issues needing further explanation or clarification. Those areas included details of the proposed facility, usage issues, financial obligations, and construction questions. The Board's letter ended by repeating that the school district was interested in further exploring the Township's suggested agreement, and needed answers to its questions to enable a complete understanding of what was being proposed.
- On June 12, 2009, the Township responded by letter. That letter did not address any of the Board's questions specifically, but said that the Township believed that "each of the relevant items can be resolved to the satisfaction of both parties." The Township then suggested a meeting to discuss the terms of a shared services agreement.
- On June 18, 2009, the Board responded to the Township by letter, stating that rather than dealing in "broad concepts," the Board needed clarification on the issues listed in its June 5 letter. Therefore, the Board asked for the Township to provide a suggested shared services agreement, addressing those issues so that discussions could move forward in the "clearest, fastest and most direct manner, which will benefit the Township, the Board, and the taxpayers."
- On June 25, 2009, the Township suggested a meeting to discuss the framework of an agreement. The same day, the Board responded that before a meeting would be useful, the Board needed clarification on the issues listed in its June 5 letter.
- On July 1, 2009, the Board again wrote to the Township asking for responses to the issues listed in its June 5 letter, and stating that "The Board simply wants to ensure that the interests of its students and the taxpayers are adequately and very clearly addressed," and that a response to the June 5 letter was needed.
- Also on July 1, 2009, the Township responded that it would not prepare a proposed agreement, or respond to the issues in the Board's June 5 letter, but that it would insist upon a meeting before those questions were answered.
- Also on July 1, 2009, the Board responded that the Board needed the answers to the issues raised in its June 5 letter before a meeting between the parties would be meaningful.
- On July 27, 2009, the Township sent a letter to the Board, briefly addressing the items listed in the Board's June 5 letter, and stating that the issues "cannot be resolved without a meeting between your staff and professionals and ours to fully understand all of our needs."

- On July 30, the Board responded that it would review all aspects of the Township's letter and suggestions at its upcoming meetings. The next Board meeting was on August 19, 2009.
- On August 21, 2009, the Board sent a letter to the Township stating that most of the issues listed in the June 5, 2009 letter were still not clarified. The Board agreed to meet with the Township to discuss those issues, and also stated that "It is essential that a public meeting takes place on a date shortly following the initial meeting, so that the public may be made fully aware of the parties' discussions and the status of this discussion."
- On September 10, 2009, representatives of the Board and the Township met at the Board's central administrative offices to discuss this matter.
 - The Board suggested that the taxpayers' interests would be served by the construction of two artificial turf fields, one on the northern part of town at Croydon Hall, and the other on the southern part of town on the property of Nut Swamp Elementary School. The Board expressed its concerns regarding the availability of the fields to students, the disruption involved in having a complete, lighted, Croydon Hall type football facility at a Middle School. The Board also expressed its ongoing cost, timing, drainage, maintenance, wetlands, liability and feasibility concerns. In all, the Board determined that the disruption to the use and operation of school facilities outweighed the benefits of having artificial turf fields installed at Thompson or Thorne.
 - The Township suggested the construction of artificial turf fields at Thorne and Thompson Middle Schools. At Thorne, the field would consist of "a field and a fence," to be used for soccer and other uses, with temporary bleachers. At Thompson, the Township anticipated building a "complete facility," eventually including an artificial turf field, concession stands, stadium seating, and bathroom facilities, used primarily for Pop Warner football. Lighting would definitely be included.
 - The Board representatives agreed to discuss the matter with the full Board at its next meeting on September 16, and then notify the Township of its position.
- On September 16, 2009, the Board notified the Township that it remained very interested in pursuing a shared services agreement for turf field construction, but that believed that the citizens and students would be best served by building a field at Nut Swamp, not Thompson or Thorne. The Board also stated that any construction could only begin "after the Board and Township work together to fully explore and assess public input on the desirability of such a project at the Nut Swamp site."
- On September 28, 2009, the Township sent a letter to the Board stating that the option of building an artificial turf field on the Nut Swamp property was "not one we wish to pursue." The Township stated that it would instead built two fields on Township property, "since two locations are available." The Township also stated that it was interested in doing some work improving the soccer fields on the Nut Swamp property.
- In October and November 2009, the Board contacted the Township to ask if improvements to athletic fields on the Nut Swamp property were still being considered. As of this date, the Township has not responded.

Copies of all the letters and emails between the Board and Township that are mentioned in this history are attached.

KENNEY, GROSS, KOVATS & PARTON
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cbparton@hotmail.com

June 5, 2009

VIA FACSIMILE 732-957-9090
and REGULAR MAIL

Anthony P. Mercantante
Middletown Township Administrator
1 Kings Highway
Town Hall
Middletown, NJ 07748

**Re: Proposed Shared Services / Land Use Agreement—
Township of Middletown and Middletown Board of Education
Artificial Turf Athletic Fields at Thorne and Thompson Schools**

Dear Mr. Mercantante:

As you are aware, the undersigned serves as legal counsel to the Middletown Board of Education. This letter is being sent to you at the direction of the Board and Administration, as a follow-up to your presentation to the Board and public at the May 27, 2009 Board meeting regarding the possibility of a Shared Services Agreement by which artificial turf athletic fields would be installed on Board property. The Board and Administration are interested in continuing the discussion of this concept. To better understand the many logistical and legal issues involved in such an agreement, the Board has asked that I obtain additional information from you. Accordingly, following is a series of questions and clarifications. We ask that you review these issues, share them with the Mayor and Township Committee and legal counsel, and respond, to enable the Board and Administration to more fully understand and consider your proposal.

As we understand your proposal, the concept is for the Board and Township to enter a Shared Services Agreement with a Land Use Agreement component, by which the Township would install, at its own expense, artificial turf athletic fields on Board property at Thompson and Thorne Middle Schools. In return, the Township would obtain an easement or use interest in that property during certain times.

1. **Rights of Usage:** would the Township be willing to specify, in a Shared Services Agreement, that the School District has absolute first right to the use of these fields at all times? Would the Township agree to refrain from use of Board property when conflicting events, even those not using the artificial turf fields, are in operation? Naturally, a central concern of the Board and Administration is the retention of usage of its property. On May 27, you used terms such as "primarily for school use during the day" and "no intention to minimize the schools' use." However, it would be important to clarify that the School District would have first rights of use of any improved fields on its property during all school hours and during all hours during which the fields are traditionally used for school-related purposes. The Thompson Principal, Patrick Houston, described that period at consisting of 8:00 a.m. through 6:00 p.m. on weekdays, in addition to certain weekend time. This would constitute the vast majority of daylight hours during most of the year. Moreover, there are several times during the year when special indoor or outdoor school-run events necessitate the use of the entire parking area at these schools. We certainly understand that the Township would want to guarantee some benefit, in the form of field usage, from a Shared Services Agreement, and ask that you clarify your understanding of the Board's first usage rights.
2. **Insurance and Liability:** would the Township agree to fully indemnify the Board for on-field injuries occurring during Township use of the fields and connected use of Board facilities (parking, bathrooms, contiguous play areas)? Given that these fields will be on Board property, any and all injuries and incidents will create exposure to the Board as the landowner. Current users of Board facilities are required to provide such indemnification. With the anticipated increase in field use, parking, spectatorship and related facility use, indemnification would be essential.
3. **Timing Issues:** there are three timing issues on which we seek clarification:
 - a. First, given our understanding that the Township received the bond authorization in 2006, what progress or decisions has it made, and what other plans have been considered and/or eliminated over the past three years? Has the Township considered the outright purchase of other property? Why is the Board property being considered at this stage in the useful life of the bond monies?
 - b. Secondly, is the Township facing any deadline with regard to the exercise of the bond authorization?
 - c. Third, given the preliminary work and procedural issues (RFP's, bidding, etc.) that would precede the start of the project, what is the anticipated starting date of the project, and would you anticipate any impact on Board use of its property during the school year?
4. **Cost Over-Runs:** does the Township anticipate that the bond monies will cover all costs of planning, engineering and construction costs at all fields affected by these projects? Were the monies initially intended for 1, 2 or 3 fields? What

responsibility would the parties respectively bear in the event that the bond funding is insufficient to complete the projects?

5. **Infrastructure Construction or Usage:** would the Township seek to build peripheral facilities, such as grandstands, concession stands, bathroom facilities, additional parking, etc., on Board property? Alternatively, would the Township intend to simply use the existing bathroom and parking facilities on Board property? The Board and Administration are well aware of the successful and crowded nature of the Croydon Hall athletic programs. Similar crowding at Thorne and Thompson would necessitate intense use of parking, bathroom facilities, and concession stands, which are not currently available.
6. **Drainage, Excavation and Wetlands Issues:** would the Township agree to make the proposed field projects contingent upon the Township's obtaining a complete draining analysis and the approval of the DEP? Although they are porous surfaces, artificial turf fields give rise to significant drainage issues. In addition, as you are aware, artificial turf fields are carefully crowned, not flat, and they involve several feet of stone under-layers, necessitating significant excavation, grading and drainage before the carpet layer is put down. There is also a geothermal HVAC installation under the fields at Thorne that may impact the ability to excavate on that site. As project engineer at High School North in 2008, CMX recommended that the field have drainage to satisfy a "100-year storm" standard, and that required several 24-inch drainage conduits. Those, in turn, must drain somewhere. Our concern is that the DEP has become involved in issues at many District school buildings, and they certainly have the authority to prevent any project from moving forward.
7. **Lighting:** please clarify what the Township's position is regarding lighting is it a mandatory or optional component of the proposed projects, or is it excluded? We are aware that to maximize your benefit from a Shared Services Agreement, the Township would clearly benefit from an increase in hours of use, and lighting is the easiest way to achieve such an increase. If lighting would be a part of the projects, which party would bear the installation, maintenance and ongoing operational costs?
8. **Maintenance and Replacement of Turf Carpet:** what is the Township's intention with regard to the costs of maintenance of the artificial turf surfaces, as well as the related facilities? Moreover, at the end of the useful life of these surfaces, would the Township intend to fund the replacement of the fields? We recognize that the 2009 Township Committee cannot effectively bind the 2019 or 2020 Township Committee to such a promise, however, it is important to clarify the intentions for the parties' future obligations, as this would be a significant budgetary issue for either or both parties.
9. **Feasibility Study:** many of the issues raised above lead to the conclusion that a feasibility study might be the most informative and responsible first step in our

mutual consideration of this project. Would the Township agree to obtain a study of both the viability and the costs of the placement of these fields, including engineering, drainage, lighting, DEP, effects on existing facilities and parking?

10. **Equal Access for Students**: in the event that the DEP or other logistical issues prevent the installation of an artificial turf field at Thorne Middle School, has the Township considered any alternative sites? The Board and Administration are concerned that any project must result in essentially equal access and use of the new fields for its students.

11. **Allocation of Funds**: what flexibility does the Township have regarding the allocation of the bond monies? If this project is not viable in its proposed form, can it be revised to include other athletic fields or community sports-related projects? Is there any scenario by which the Township would have either the option or the obligation to restore the monies to the taxpayers as tax relief?

Please review these issues and provide information / clarification. As noted above, the Board and Administration are interested in further exploring your proposal, and your provision of answers to these questions will enable a thorough understanding and review of this matter.

Thank you for your continued cooperation and attention.

Very truly yours,

KENNEY, GROSS, KOVATS & PARTON



Christopher B. Parton

CBP

cc: Board of Education Members
Karen L. Bilbao, Superintendent of Schools
William J. Doering, School Business Administrator

TOWNSHIP OF MIDDLETOWN

Township Hall, One King's Highway
Middletown, NJ 07748-2594

PAMELA M. BRIGHTBILL
Mayor

GERARD P. SCHARFENBERGER
Deputy Mayor

SEAN F. BYRNES
Committee Member

ANTHONY P. FIORE
Committee Member

PATRICK SHORT
Committee Member



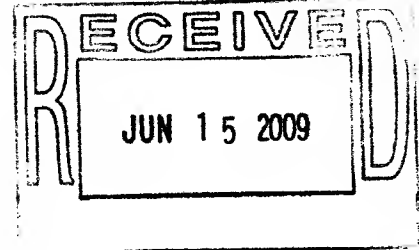
Organized December 14, 1667
"Pride In Middletown"

ANTHONY P. MERCANTANTE, P.P., AICP
Township Administrator

HEIDI R. ABS, RMC
Township Clerk

Tel: (732) 615-2000
Fax: (732) 957-9090

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Christopher B. Parton, Esq.
Kenney, Goss, Kovats & Parton
The Courts of Red Bank
130 Maple Avenue, Building 8
Red Bank, New Jersey 07701

June 12, 2009

Re: Proposed Shared Services Middletown Township and Middletown Board of Education

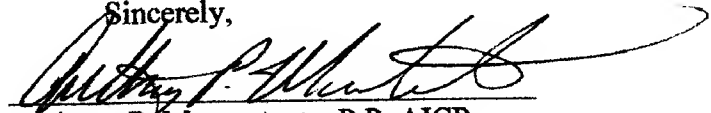
Dear Mr. Parton:

Thank you for your letter of June 5th, in which you raise a number of issues on behalf of the Middletown Board of Education. I have reviewed the items listed and I have every reason to believe that each of the relevant items can be resolved to the satisfaction of both parties. Rather than go through a point by point response and in the interest of expediency I would like to suggest a meeting be arranged between our professionals and yours to discuss the terms of a possible shared services agreement, encompassing many of the issues you have raised.

I would request that if such a meeting is convened that those in attendance are given some degree of authority to speak on behalf of the Board or that some Board members themselves participate. I believe that this will lead to a decision far more quickly and efficiently than trying to resolve questions via trading letters.

Please get back to me at your earliest convenience so that we can work out a mutually agreeable meeting date and time.

Sincerely,



Anthony P. Mercantante, P.P. AICP
Township Administrator

cc: Mayor and Members of the Township Committee
Brian Nelson
Gregg Silva

Save a Life, Save A Neighborhood, Save Taxes – Volunteer!

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June 18, 2009

VIA FACSIMILE 732-957-9090
EMAIL amercant@middletownnj.org
and REGULAR MAIL

Anthony P. Mercantante
Middletown Township Administrator
1 Kings Highway
Town Hall
Middletown, NJ 07748

**Re: Proposed Shared Services / Land Use Agreement—
Township of Middletown and Middletown Board of Education**

Dear Mr. Mercantante:

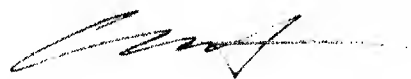
Thank you for your June 12, 2009 letter, which I received via regular mail on June 15. The Board of Education, having reviewed and discussed your letter at its June 17 meeting, sincerely appreciates your stated position that each of the areas of concern and clarification listed in my June 5 letter can be adequately addressed and resolved.

To enable the parties to deal in specific details rather than broad concepts, the Board has asked me to request that you provide us with a working draft of a proposed Shared Services Agreement. As noted in my earlier letter, it is important that all of the areas of concern and clarification are addressed specifically, so that the parties are assured of a mutually beneficial arrangement. I believe that this course of action will enable us to move forward in a clearest, fastest, and most direct manner, which will benefit the Township, the Board, and the taxpayers.

Thank you for your continued cooperation and attention.

Very truly yours,

KENNEY, GROSS, KOVATS & PARTON



Christopher B. Parton

CBP

cc: Board of Education Members
Karen L. Bilbao, Superintendent of Schools
William J. Doering, School Business Administrator

RE: Proposed Shared Services Agreement

From: **Christopher Parton** (cbparton@hotmail.com)

Sent: Thu 6/25/09 5:00 PM

To: Tony Mercantante (amercant@middletownnj.org)

Cc: Bill Doering (doeringb@middletownk12.org); gsilva@middletownnj.org;
bnelson@mennalaw.com

Tony, thank you for touching base. I will discuss this with the Board and get back to you as soon as possible. However, based upon my discussions with the Board and the contents of my June 5, 2009 letter to you, it is likely to be the Board's position that a meeting is premature, and that there is sufficient information to make the next reasonable step the provision of a draft Agreement from the Township to the Board. I will be in touch shortly.

CHRISTOPHER B. PARTON, Esq.

Kenney, Gross, Kovats & Parton

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cbparton@hotmail.com

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Subject: RE: Proposed Shared Services Agreement

Date: Thu, 25 Jun 2009 16:43:40 -0400

From: amercant@middletownnj.org

To: cbparton@hotmail.com

CC: doeringb@middletownk12.org; gsilva@middletownnj.org; bnelson@mennalaw.com

Chris,

It seems to me that the best option would be for the staff and professionals to meet to work out the framework of an agreement and then we can submit a draft to both the Board of Education and the Township Committee. Therefore I suggest a meeting to include the following:

Bill Doerring

Chris Parton

Tony Mercantante

Brian Nelson

Gregg Silva

Obviously you can bring others if it would help to facilitate the discussion. I would like to meet either on July 1st or July 6th. Please let me know if you agree and which date works best for you.

Tony Mercantante

From: Christopher Parton [mailto:cbparton@hotmail.com]
Sent: Thursday, June 18, 2009 8:13 AM
To: Mercantante, Anthony
Cc: Bill Doering
Subject: Proposed Shared Services Agreement

Tony, please see the attached letter, which is also being faxed and mailed to you. For your convenience, please note my email and fax contact information below.

Thank you for your attention.

CHRISTOPHER B. PARTON, Esq.
Kenney, Gross, Kovats & Parton
 tel (732) 530-7500
 fax (732) 530-1739
cbparton@hotmail.com

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Proposed Shared Services Agreement

From: **Christopher Parton** (cbparton@hotmail.com)

Sent: Wed 7/01/09 4:41 PM

To: Tony Mercantante (amercant@middletownnj.org)

Cc: Bill Doering (doeringb@middletownk12.org); Laura Agin (lagin@comcast.net)

Tony, as promised in my June 25 email to you, I have had the opportunity to share your earlier email and update the Board of Education on this matter. The Board's position is that although they will gladly attend a meeting at the right time, it would be premature to meet at this point until the many concerns set forth in my June 5, 2009 letter to you are formally addressed by the Township in a draft Agreement. The Board simply wants to ensure that the interests of its students and the taxpayers are adequately and very clearly addressed, and this appears to be the best way to do so.

Please consider this step and advise of the Township's position. Thank you for your attention.

CHRISTOPHER B. PARTON, Esq.

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RE: Proposed Shared Services Agreement

From: **Christopher Parton** (cbparton@hotmail.com)

Sent: Wed 7/01/09 7:43 PM

To: Tony Mercantante (amercant@middletownnj.org)

Cc: Bill Doering (doeringb@middletownk12.org); Laura Agin (lagin@comcast.net);
pbrightb@middletownnj.org; gsilva@middletownnj.org; bnelson@mennalaw.com;
Karen Bilbao (bilbaok@middletownk12.org); Dawn Diorio (dawndiorio@verizon.net);
David Healy (healyd@middletownk12.org)

Tony,

I assume you are speaking for, and with the authority of, the Township Committee, and I appreciate your position. However, with the authority and direction of the Board of Education, I must repeat the position that many very specific areas of concern were enunciated in my June 5 letter, and they have yet to be addressed.

I agree that neither party should be in the position of operating "in a vacuum," but I would suggest that the areas of concern listed in that letter, together with the general concepts you discussed at the Board's May meeting, form a rather solid starting point for a draft Shared Services Agreement.

Please consider the foregoing and share the Board's position with the Mayor and Committee. I will certainly share your position with the Board, and advise as soon as possible.

Thank you for your attention.

CHRISTOPHER B. PARTON, Esq.

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fax (732) 530-1739

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Subject: RE: Proposed Shared Services Agreement

Date: Wed, 1 Jul 2009 17:03:44 -0400

From: amercant@middletownnj.org

To: cbparton@hotmail.com

CC: doeringb@middletownk12.org; lagin@comcast.net; pbrightb@middletownnj.org;
gsilva@middletownnj.org; bnelson@mennalaw.com

Chris,

I think it is thoroughly unreasonable to expect the Township staff and professionals to prepare a draft agreement of this nature in a vacuum. Most of the provisions of such an agreement will have to address the interests of both the Township and the School Board, not to mention all of the taxpayers, whom we all represent. It seems as though you are asking us to "take a stab" at preparing an agreement only to have it critiqued by the Board. That is not the way to develop a mutually beneficial agreement and certainly not the way to do so expeditiously. I would anticipate that if a meeting such as I have suggested were to be held, with you and Mr. Doerring present, that you both would be well able to "...ensure that the interests of the students and the taxpayers are adequately and very clearly addressed..." I see no reason for us not to collaborate on a draft agreement and that will be the viewpoint I present to the Township Committee.

Tony Mercantante

From: Christopher Parton [mailto:cbparton@hotmail.com]
Sent: Wednesday, July 01, 2009 4:42 PM
To: Mercantante, Anthony
Cc: Bill Doering; Laura Agin
Subject: Proposed Shared Services Agreement

Tony, as promised in my June 25 email to you, I have had the opportunity to share your earlier email and update the Board of Education on this matter. The Board's position is that although they will gladly attend a meeting at the right time, it would be premature to meet at this point until the many concerns set forth in my June 5, 2009 letter to you are formally addressed by the Township in a draft Agreement. The Board simply wants to ensure that the interests of its students and the taxpayers are adequately and very clearly addressed, and this appears to be the best way to do so.

Please consider this step and advise of the Township's position. Thank you for your attention.

CHRISTOPHER B. PARTON, Esq.
Kenney, Gross, Kovats & Parton
tel (732) 530-7500
fax (732) 530-1739
cbparton@hotmail.com

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TOWNSHIP OF MIDDLETOWN

Township Hall, One King's Highway
Middletown, NJ 07748-2594

ANTHONY P. MERCANTANTE, P.P., AICP
Township Administrator

HEIDI R. ABS, RMC
Township Clerk



Organized December 14, 1667
"Pride In Middletown"

Tel: (732) 615-2000
Fax: (732) 957-9090



PAMELA M. BRIGHTBILL
Mayor
GERARD P. SCHARFENBERGER
Deputy Mayor
SEAN F. BYRNES
Committee Member
ANTHONY P. FIORE
Committee Member
PATRICK SHORT
Committee Member

Mr. William Doering, Business Administrator
Middletown Board of Education
59 Tindall Road
Middletown, NJ 07748

July 27, 2009

Dear Mr. Doering:

In response to the letter I received from Board Attorney Christopher Parton I would comment as follows:

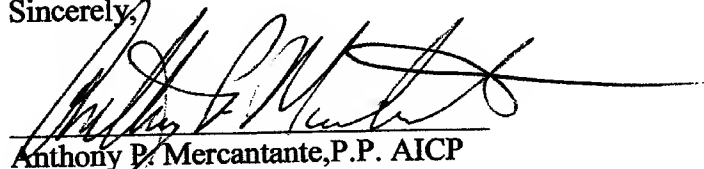
1. Rights of usage will be a key element of any agreement. This matter cannot be resolved without a meeting between your staff and professionals and ours to fully understand all of our needs.
2. Insurance and liability will be a key element of any agreement. I am confident that both of our legal counsels will ensure that we are each well protected and the specific terms will have to be spelled out in an agreement.
3. Timing issues are dependent on a number of factors. We obviously feel that the three locations proposed make sense and we want to move forward as quickly as possible. Specific timing issues can be addressed once we have met and a realistic time frame is established.
4. We anticipate that the funds planned are sufficient.
5. Infrastructure construction or usage will be a key element of any agreement. This matter cannot be resolved without a meeting between your staff and professionals and ours to fully understand all of our needs.
6. The Township is aware of these issues and would obviously have to address them should the project move forward.
7. Lighting will be a key element of any agreement. This matter cannot be resolved without a meeting between your staff and professionals and ours to fully understand all of our needs.

Save a Life, Save A Neighborhood, Save Taxes – Volunteer!

8. Maintenance and replacement of turf will be a key element of any agreement. This matter cannot be resolved without a meeting between your staff and professionals and ours to fully understand all of our needs.
9. We plan to do an RFP to retain experts in the design of the fields. This will determine project feasibility. To the extent that all of these properties are available and currently being used for this very purpose, we believe this project is feasible.
10. We agree that equal access for students will be a key element of any agreement. This matter cannot be resolved without a meeting between your staff and professionals and ours to fully understand all of our needs. We also feel strongly that the access to and usage of all turf fields, including the two existing fields and the two High Schools should be a part of any agreement we reach.
11. This is a fiscal matter for the Township Committee and not relevant to this project moving forward.

I am confident that these issues can be worked out to the satisfaction of both the Township Committee and the Board of Education. Most importantly this is a project that can have great long term benefits to many residents of the Township, especially our youth. Please get back to me at your earliest convenience so that we can arrange a meeting between the appropriate participants.

Sincerely,



Anthony P. Mercantante, P.P. AICP
Township Administrator

cc: Mayor and Members of the Township Committee
Brian Nelson
Christopher Parton ✓
Heidi Abs
Gregg Silva

Proposed Shared Services Agreement

From: **Christopher Parton** (cbparton@hotmail.com)

Sent: Thu 7/30/09 1:05 PM

To: Tony Mercantante (amercant@middletownnj.org)

Cc: Laura Agin (lagin@comcast.net); Dawn Diorio (dawndiorio@verizon.net); Bill Doering (doeringb@middletownk12.org)

Tony, thank you for your July 27 letter in this matter. Mr. Doering and I have forwarded your letter to the members of the Board of Education, and I will respond as soon as I have taken direction from the Board.

CHRISTOPHER B. PARTON, Esq.

Kenney, Gross, Kovats & Parton

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KENNEY, GROSS, KOVATS & PARTON

ATTORNEYS AT LAW

THE COURTS OF RED BANK

130 MAPLE AVENUE, BUILDING 8

RED BANK, NEW JERSEY 07701

**MALACHI J. KENNEY
MICHAEL J. GROSS
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TEL. 732-530-7500

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August 21, 2009

**VIA FACSIMILE 732-957-9090
EMAIL amercant@middletownnj.org
and REGULAR MAIL**

**Anthony P. Mercantante
Middletown Township Administrator
1 Kings Highway
Town Hall
Middletown, NJ 07748**

**Re: Proposed Shared Services / Land Use Agreement—
Township of Middletown and Middletown Board of Education**

Dear Mr. Mercantante:

I have had the opportunity to review your July 27, 2009 letter with the Board of Education and Administration. It appears that the majority of the issues set forth in my June 5, 2009 letter to you, including a number of threshold questions that are essential for the Board to fully assess your proposal, remain unanswered.

However, it also appears that the Township Committee feels strongly that a meeting must take place in order to answer those questions, and therefore, the Board will certainly agree to meet. We suggest that representatives of the Township attend a meeting with the Board's Facilities Committee, as well as Mr. Doering and myself, where the threshold issues can be addressed and, hopefully, progress can be made towards an agreement.


It is essential to the Board that a public meeting takes place on a date shortly following the initial meeting, so that the public may be made fully aware of the parties' discussions and the status of this discussion. We would hope that appropriate representatives of the Township would attend that meeting as well, and take an active role in the discussion with the public.

Please advise if the Township is agreeable to this process. If so, we will work with you to arrange a mutually convenient date and time for the initial meeting.

Thank you for your continued cooperation and attention.

Very truly yours,

KENNEY, GROSS, KOVATS & PARTON



Christopher B. Parton

CBP

cc:

Board of Education Members

Karen L. Bilbao, Superintendent of Schools

William J. Doering, School Business Administrator

Proposed Shared Services Agreement

From: **Christopher Parton** (cbparton@hotmail.com)

Sent: Wed 9/16/09 11:47 PM

To: Tony Mercantante (amercant@middletownnj.org)

Cc: Laura Agin (lagin@comcast.net); Bill Doering (doeringb@middletownk12.org); David Healy (healyd@middletownk12.org); Karen Bilbao (bilbaok@middletownk12.org)

Tony,

The Board of Education discussed the proposed Shared Services Agreement regarding artificial turf fields on school property at length tonight. After an extended discussion, the Board reached the consensus that it remains very interested in pursuing this concept.

However, the Board also determined that it does not wish to pursue discussions of the installation of artificial turf fields at Thompson and Thorne Middle Schools. Rather, the Board believes that all citizens and students would be best served by pursuing the installation of a turf field on the property of Nut Swamp School. In addition, it is the Board's hope and intention that any installation of a field would only be accomplished after the Board and Township work together to fully explore and assess public input on the desirability of such a project at the Nut Swamp site.

Please review this information with the Township Committee and Administration and advise of your position. Thank you again for your attention and cooperation in this matter.

CHRISTOPHER B. PARTON, Esq.

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Mr. CHRISTOPHER B. PARTON, Esq.
Kenney, Gross, Kovats & Parton
130 Maple Avenue
Red Bank, New Jersey 07701

September 28, 2009

Re: Synthetic Turf Fields

Dear Mr. Parton:

I received and reviewed your email of September 16th, 2009 relative to the Township of Middletown's proposal to construct three synthetic turf fields, two of which would have been located on school properties. Your email reflects the results of this matter being discussed by the Board at their regular meeting of September 16, 2009. In your email you explain that it is the Board of Education's position that it was not in favor of the two proposed Middle School field locations (Thorne and Thompson), but that instead the Board wished to explore the construction of a synthetic turf field at Nutswamp School.


I have had the opportunity to consider this option, discuss it with Township professionals and I have discussed the matter with the Township Committee. It is our opinion that this option is not one we wish to pursue. We will move forward with construction of the two fields independently of the Board of Education. We believe that if we are going to wind up constructing only two fields instead of three, then it would make sense to place both fields on Township property, since two locations are available. In addition we feel that utilizing the Nutswamp school location would have a greater negative impact on existing recreational programs, primarily soccer, due to the number of fields that would be displaced.

As I believe we have indicated in the past the Township has planned some capital improvements to the soccer fields at Nutswamp. We certainly remain ready to move forward with those improvements, unless the Board would prefer us not to. Please advise on that issue.

Save a Life, Save A Neighborhood, Save Taxes - Volunteer!

I and the Township Committee want to thank the Board members and Board staff for working with us to consider this joint venture and for being as responsive as you have been. I am also confident that we will continue our close working relationship with regard to facility and recreational programs, operations and maintenance throughout the Township.

Sincerely,



Anthony P. Mercantante, P.P. AICP
Township Administrator

cc: Mayor and Township Committee
Brian Nelson
Gregg Silva
Bill Doering